

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NationsRent, Inc., et al.,<sup>1</sup>

Debtors.

NationsRent Unsecured Creditor's  
Liquidating Trust, Perry Mandarino, not  
personally, but as Trustee

Plaintiff,

v.

3-D/Costal Oil Company

4 Star Air Hydraulics & Ind.

Action Tire Company

ADA Resources Inc.

Advanced Tire Inc.

Ael Leasing Co., Inc.

Agovino & Asselta, LLP

Airdyne Management Inc.

Allen Oil Company of Sylacauga, Inc.<sup>1(a)</sup>

Alternators Unlimited Reb.

A.O.K. Tire Mart II, Inc.

Archie's Truck Service

Arrow Master, Inc.

ASAP Equipment Rental & Sales

Authorized Equipment, Inc.

Case Nos. 01-11628 through 01-11639 (PJW)

Jointly Administered

Chapter 11

District Court Case Nos. (KAJ):

04-CV-1033

04-CV-1030

04-CV-1031

04-CV-976

04-CV-713

04-CV-767

04-CV-1035

04-CV-714

04-CV-801

04-CV-988

04-CV-766

04-CV-1158

04-CV-1160

04-CV-716

04-CV-784

<sup>1</sup> NationsRent USA, Inc., NationsRent Transportation Services, Inc., NR Delaware, Inc., NRG, Inc., NationsRent West, Inc., Logan Equipment Corp., NR Dealer, Inc., NR Franchise Company, Inc., NationsRent of Texas, LP, and NationsRent of Indiana, LP

<sup>1(a)</sup> Caption continued on the following pages.

|   |            |
|---|------------|
| Bay Counties Pitcock Petroleum Inc.         | 04-CV-1060 |
| Black & Veatch Constr.                      | 04-CV-1039 |
| Blue Ribbon Tire Co., Inc.                  | 04-CV-721  |
| Bobcat Company                              | 04-CV-1026 |
| Bradenton Fuel Oil, Inc.                    | 04-CV-1037 |
| Burch-Lowe, Inc.                            | 04-CV-1076 |
| Carruth-Doggett Industries, Inc.            | 04-CV-723  |
| C.G.& E.                                    | 04-CV-802  |
| Central Tire                                | 04-CV-995  |
| Cintas Corp. #318, Cintas Corporation No. 2 | 04-CV-996  |
| CMD Group                                   | 04-CV-726  |
| Coleman Engineering                         | 04-CV-1148 |
| Collision Pro                               | 04-CV-1149 |
| Columbus Equipment Company                  | 04-CV-998  |
| Columbus McKinnon Corp.                     | 04-CV-999  |
| Commercial Tire Inc.                        | 04-CV-806  |
| Construction Machinery, Inc.                | 04-CV-1142 |
| Contractors Machinery Co. Inc.              | 04-CV-795  |
| Corporate Express                           | 04-CV-1001 |
| Cowin Equipment Company, Inc.               | 04-CV-728  |
| Creative Financial Staffing                 | 04-CV-1021 |
| Crosscheck, Inc.                            | 04-CV-732  |
| Cyrk, Inc. a/k/a Cyrk Acquisition           | 04-CV-734  |
| Delta BCX Printing                          | 04-CV-1167 |
| Delta Formost Chemical Corporation          | 04-CV-1170 |
| Diamant Boart Inc.                          | 04-CV-1104 |
| Diamond Hydraulics                          | 04-CV-1106 |
| Diamond J. Transport, Inc.                  | 04-CV-787  |

|   |            |
|---|------------|
| Diversified Credit Service  | 04-CV-1096 |
| Don's Tire Service, Inc.  | 04-CV-1106 |
| Dorris Cleaning   | 04-CV-1111 |
| Doskocil Industries, Inc.   | 04-CV-1150 |
| Dossey Holdings, Inc.   | 04-CV-1155 |
| Double A  | 04-CV-1153 |
| Douglass Distributing   | 04-CV-1114 |
| Dutchess Forging  | 04-CV-1117 |
| Ebusiness Technology partners, Inc., f/k/a<br>PSR Professional Staffing, Inc. | 04-CV-747  |
| Ed Hart   | 04-CV-975  |
| EJ Reynolds, Inc.   | 04-CV-722  |
| Equipment Development Co., Inc.   | 04-CV-1128 |
| Equiptechs, Inc.  | 04-CV-789  |
| Falcon Power  | 04-CV-1130 |
| Fischer Group   | 04-CV-1141 |
| FL Hydraulic Machinery  | 04-CV-725  |
| Fleetwing Corp.   | 04-CV-1151 |
| Fluid Tech Hydraulics, Inc.   | 04-CV-1154 |
| GCR Pensacola Truck Tire Ctr.   | 04-CV-730  |
| Gene Jackson Tire Co.   | 04-CV-1049 |
| GFC Leasing   | 04-CV-1051 |
| GMR Marketing LLC   | 04-CV-731  |
| Goodyear Commercial Tire & Service<br>Center                                  | 04-CV-733  |
| GSR Construction, Inc.  | 04-CV-768  |
| Gullo Ford Mercury  | 04-CV-769  |
| Harbor Graphics Corporation   | 04-CV-1007 |
| Harte-Hanks   | 04-CV-739  |

|                                     |            |
|-------------------------------------|------------|
| Hick's Petroleum Distributors, Inc. | 04-CV-770  |
| Hindley Electronics, Inc.           | 04-CV-1013 |
| Holt Equipment Company Co., LLC     | 04-CV-772  |
| Hunt & Sons                         | 04-CV-1019 |
| Husqvarna Forest & Garden           | 04-CV-1176 |
| ID Technologies, Inc.               | 04-CV-1043 |
| Igloo Products Corp.                | 04-CV-1042 |
| Illuminating Company                | 04-CV-1070 |
| Industrial Hydraulics               | 04-CV-1075 |
| Ingram Trucking LLC                 | 04-CV-744  |
| BBF, Ltd                            | 04-CV-800  |
| JAM Distributing Company            | 04-CV-1123 |
| J&B Auto Supply, Inc.               | 04-CV-1162 |
| Jeff Falkanger & Associates         | 04-CV-1184 |
| Jimmy's Garage                      | 04-CV-1080 |
| Joe Jeter Sales                     | 04-CV-981  |
| John Ray and Sons Inc.              | 04-CV-774  |
| Kent Demolition Tools               | 04-CV-987  |
| Keson Industries Inc.               | 04-CV-1116 |
| Kforce.com Inc.                     | 04-CV-745  |
| L&P Financial Services              | 04-CV-1165 |
| Laclede Chain Mfg. Co.              | 04-CV-1086 |
| Land & Sea Petroleum, Inc.          | 04-CV-993  |
| Lionudakis Wood & Green Waste       | 04-CV-1091 |
| Little Beaver, Inc.                 | 04-CV-997  |
| Lockhart Tire                       | 04-CV-1062 |
| M & D Distributors                  | 04-CV-1172 |
| M.P. Brine Inc.                     | 04-CV-783  |

|   |            |
|---|------------|
| Maxim Group   | 04-CV-757  |
| Maxout Sourcing Services  | 04-CV-758  |
| Metso Minerals Industries, Inc.   | 04-CV-1011 |
| Miller Bros Giant Tire Service-<br>Jacksonville, Inc.                       | 04-CV-1178 |
| The Miller Spreader Co.   | 04-CV-1008 |
| Mission Critical System, Inc.   | 04-CV-1014 |
| Mobile Products, Inc.   | 04-CV-1186 |
| Mobile Storage Group, Inc.  | 04-CV-1028 |
| Morgan Auto Supply Co.  | 04-CV-1191 |
| Morgan Guaranty Trust Company of<br>New York                                | 04-CV-1192 |
| Morgan Marshall Industries Inc.   | 04-CV-763  |
| Multiquip Inc.  | 04-CV-1025 |
| Mutual Industries   | 04-CV-737  |
| Naab Consulting Corp.   | 04-CV-1027 |
| Nabors Radiator & Electric  | 04-CV-738  |
| NACM  | 04-CV-1067 |
| NAPA Auto Parts, National Automotive<br>Parts Association                   | 04-CV-1041 |
| Napa Auto Parts of Franklin   | 04-CV-1073 |
| Nashville Tractor & Equip. Inc. formally<br>known as Nashville Ford Tractor | 04-CV-1063 |
| Neff Rental Inc.  | 04-CV-785  |
| Nickey Petroleum Co. Inc.   | 04-CV-1085 |
| Nortrax Equipment Co. SE, LLC   | 04-CV-1045 |
| Nortrax Equipment Co. South LA  | 04-CV-1044 |
| Nortrax NE LLC  | 04-CV-1064 |
| NSTAR Electric & Gas Corporation  | 04-CV-1066 |

|   |            |
|---|------------|
| Office Management Systems Inc.                        | 04-CV-742  |
| Olsen Tire  | 04-CV-792  |
| Original Equipment Replacement Parts, Inc.            | 04-CV-777  |
| Orlando Industrial Contractors                        | 04-CV-776  |
| OTR Tire & Supply Co.                                 | 04-CV-1088 |
| Overland Machinery Co.                                | 04-CV-1089 |
| Pacific Century LSG #449                              | 04-CV-1074 |
| Palmer Distributing & Sales                           | 04-CV-1055 |
| Parkway Truck Sales, Inc.                             | 04-CV-781  |
| Partner Industrial Products                           | 04-CV-1047 |
| Parts Associates                                      | 04-CV-1056 |
| Penick, Parr & Associates                             | 04-CV-1092 |
| Peterson Tire Inc.                                    | 04-CV-1061 |
| Pipeline Supply & Service                             | 04-CV-1098 |
| Pratt & Whitney Canada, Inc.                          | 04-CV-786  |
| Pro Chem Cleaning                                     | 04-CV-1108 |
| Progressive Tractor Corp.                             | 04-CV-791  |
| Promotion Solution Inc.                               | 04-CV-790  |
| Quick Corner CITGO                                    | 04-CV-1119 |
| Reeder Distributors Inc.                              | 04-CV-749  |
| Relizon   | 04-CV-750  |
| Rentlink Inc.   | 04-CV-1054 |
| Rhode Island Tire Co. Inc.                            | 04-CV-1032 |
| Rish Equipment Company                                | 04-CV-796  |
| Robertson Fleet Service Inc.                          | 04-CV-1029 |
| S&D Tire Inc.   | 04-CV-1134 |
| Saber Fleet Services, Inc. d/b/a Weiland Tire Service | 04-CV-753  |

|  |            |
|--|------------|
| Sanford Auto & Truck Parts                 | 04-CV-1140 |
| Scotty's Oil Company, Inc.                 | 04-CV-755  |
| Sellers Petroleum Products Inc.            | 04-CV-1109 |
| Sensormatic Electronics Corp.              | 04-CV-1169 |
| Services & Materials, Co.                  | 04-CV-1171 |
| Sherwin-Williams                           | 04-CV-754  |
| SB Power Tool Corp.                        | 04-CV-1174 |
| Soco Group                                 | 04-CV-1159 |
| Son Coast, Hauling, CCC                    | 04-CV-1077 |
| Southeastern Crane                         | 04-CV-799  |
| Southern Energy Company                    | 04-CV-1084 |
| Southern Linc                              | 04-CV-1093 |
| Spectra Precision d/b/a Richard B. Trimble | 04-CV-1094 |
| Speedway New Holland                       | 04-CV-1100 |
| Staffing Master.com                        | 04-CV-1113 |
| Star Tire Company Inc.                     | 04-CV-1050 |
| Sterling Truck of Utah                     | 04-CV-1102 |
| Stihl Inc. National Accounts               | 04-CV-1180 |
| Stone Construction Equipment Inc.          | 04-CV-1183 |
| Sullivan Palatek Inc.                      | 04-CV-1052 |
| Sun Coast Resources Inc.                   | 04-CV-1188 |
| Tacony Corporation                         | 04-CV-808  |
| Terex Aerials, Inc. d/b/a Terex Cranes     | 04-CV-973  |
| Texana Machinery Corp.                     | 04-CV-805  |
| Tex Con Oil Company                        | 04-CV-1120 |
| Tioga Inc.                                 | 04-CV-1129 |
| TIP Dept 0501                              | 04-CV-1131 |
| Tire Centers LLC                           | 04-CV-1133 |

|   |            |
|---|------------|
| TMP Worldwide Inc. also known as<br>Monster Worldwide, Inc. | 04-CV-986  |
| Triton Transport Inc  | 04-CV-1196 |
| Truck Lease Corp.   | 04-CV-1198 |
| Truck PM Corporation  | 04-CV-1002 |
| Tsurumi (America) Inc.                                      | 04-CV-1005 |
| Tullo Truck Stop  | 04-CV-1138 |
| Unifirst Corp.  | 04-CV-1139 |
| Uniontools, Inc.  | 04-CV-1009 |
| US Imaging Solutions  | 04-CV-1012 |
| US Market Inc.  | 04-CV-740  |
| Valley Rubber & Gasket                                      | 04-CV-1144 |
| Valley Tire Co., Inc.                                       | 04-CV-1194 |
| The Valvoline Company                                       | 04-CV-759  |
| Vector Security Inc   | 04-CV-1197 |
| Vermeer Equipment of Texas Inc.                             | 04-CV-1166 |
| Vermeer Manufacturing Company                               | 04-CV-1016 |
| Vermeer Northeast   | 04-CV-1175 |
| Vermeer of Tennessee, Inc.                                  | 04-CV-1071 |
| Vermeer Sales & Service of Colorado, Inc.                   | 04-CV-1112 |
| Vermeer Sales and Service of Southern<br>Ohio, Inc.         | 04-CV-1107 |
| Vermeer Sales of Texas Inc.                                 | 04-CV-1189 |
| Vickers & Asso, Inc.  | 04-CV-1079 |
| Vic's Tire Service  | 04-CV-804  |
| Viking Oil  | 04-CV-1081 |
| Voltech Company   | 04-CV-1087 |
| Wayne Miller's Mobile Tire Inc.                             | 04-CV-1179 |
| Randy Wendel  | 04-CV-1185 |

Worcester Truck Body Co., Inc.  
 World Wide Welding & Press Inc.  
 Defendants.

04-CV-1168

04-CV-1103

Hearing Date: May 16, 2005 at 2:00 p.m.

**MOTION OF CREDITOR TRUST TRUSTEE FOR AN ORDER  
 SCHEDULING AN INITIAL PRETRIAL CONFERENCE IN THE  
 ABOVE-CAPTIONED AVOIDANCE ACTIONS ON MAY 16, 2005 AT 2:00 P.M.**

The NationsRent Unsecured Creditors Liquidating Trust (the "Creditor Trust"), by and through its undersigned counsel, hereby moves (the "Motion") this Court, pursuant to Federal Rule of Civil Procedures 16(a) and Rule 16.2(a) of the Local Rules of Civil Practice and Procedure for the United States District Court for the District of Delaware, for an order scheduling an initial pretrial conference in the above-captioned avoidance actions on May 16, 2005 at 2:00 p.m. (the "Initial Conference"). In support of this Motion, the Creditor Trust states as follows:

**BACKGROUND**

1. On December 17, 2001 (the "Petition Date"), NationsRent, Inc. and certain of its direct and indirect affiliates (collectively the "Debtors") filed petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

2. The Debtors continued to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107 and 1108 of Bankruptcy Code.

3. On May 14, 2003, this Court entered an order confirming the First Amended Joint Plan of Reorganization of NationsRent, Inc. and its Debtor Subsidiaries,

dated as of February 7, 2003, as modified (the "Plan"). The Plan became effective on June 13, 2003 (the "Effective Date").

4. Pursuant to the Plan, the Creditor Trust was established as of the Effective Date and was granted the right to, among other things, pursue avoidance actions under section 547 of the Bankruptcy Code.

5. Between December 11, 2003, and December 16, 2003, the Creditor Trust filed approximately 465 complaints (the "Preference Actions") in the Bankruptcy Court seeking to avoid and recover preferential payments made by the Debtors to their creditors within 90 days of the Petition Date pursuant to sections 547 and 550 of the Bankruptcy Code.

6. On or about June 29, 2004 and August 25, 2004, the United States District Court for the District of Delaware (the "District Court") withdrew the reference to the Bankruptcy Court of the unresolved Preference Actions, thereby assuming direct control over the cases.

7. Prior to the filing of this Motion, the Creditor Trust resolved approximately 250 of the original 465 Preference Actions without the need for any formal discovery or any intervention by the Bankruptcy Court or the District Court. No pretrial conferences have been conducted by the Bankruptcy Court or the District Court.

8. At this point, approximately 210 Preference Actions remain pending. The average amount of each Preference Action claim is approximately \$33,000.00. However, the 20 largest claims, or approximately 10% of the number of remaining Preference

Actions, account for nearly 45% of the total dollar amount of claims being pursued. Therefore, the average amount of each Preference Action claim, excluding the 20 largest claims, is approximately \$20,000.00.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

### **RELIEF REQUESTED**

10. The Creditor Trust seeks an order, pursuant to Rule 16(a) of the Federal Rules of Civil Procedure and D. Del. LR 16.2(a), (A) setting an initial pretrial conference before this Court on May 16, 2005 at 2:00 p.m.; and (B) fixing a scheduling conference to be conducted approximately four months thereafter.

11. Federal Rule 16(a) provides that, “[i]n any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as (1) expediting the disposition of the action. . . (3) discouraging wasteful pretrial activities . . . and (5) facilitating settlement of the case.” In addition, D. Del LR. 16.2(a) also contemplates the scheduling of an Initial Conference to address the nature of the case, any special difficulties, a proposed date for a scheduling conference and requests for modifying the mandatory disclosure requirements.

12. The Plaintiff submits that the scheduling of an Initial Conference is necessary and appropriate to facilitate the prompt and efficient resolution of the

remaining Preference Actions. As noted above, the average amount of each Preference Action claim is only \$33,000. Moreover, when the largest 20 claims are excluded, the average Preference Action claim is only \$20,000. In order to promote judicial economy and the efficient administration of justice, all reasonable efforts should be undertaken to attempt to settle each remaining Preference Action before the parties are required to engage in formal pretrial discovery and other potentially costly proceedings which would require Court involvement. Accordingly, the Plaintiff requests that the Court schedule an Initial Conference at which the Court would (a) direct the parties to engage in good faith negotiations and meet and confer sessions during the next four months; (b) fix a scheduling conference pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and D. Del. LR. 16.2(b) to be conducted at the conclusion of the negotiation period; and, (c) address any other relevant issues. The attendance of attorneys for parties and any unrepresented parties at the Initial Conference is needed to facilitate the settlement and efficient administration of the remaining Preference Actions.

13. The Creditor Trust and its counsel will continue to attempt to resolve the remaining Preference Actions without Court intervention. Nonetheless, scheduling the Initial Conference will facilitate the timely resolution of the remaining Preference Actions and the identification of those matters that may require more extensive pretrial and trial proceedings.

#### **NOTICE OF INITIAL CONFERENCE**

14. Counsel for the Creditor Trust intends to serve, by regular first class mail, a copy of the Notice of the Initial Pretrial Conference, a copy of which is annexed hereto


as Exhibit "A", upon counsel for all parties that have filed a pleading in response to the complaints and upon the last known addresses of each defendant that has not filed a responsive pleading within two business days of the entry of such order.

15. The Creditor Trust submits that no notice of this Motion is required pursuant Federal Rule of Civil Procedure 16(a) and D. Del. LR. 16.2(a).

16. Pursuant to D. Del. LR. Rule 7.1.2(a), the Creditor Trust waives its right to brief this Motion but reserves the right to file a brief in reply to any objections filed to this Motion.

**WHEREFORE**, the Creditor Trust respectfully requests that the Court grant this Motion, set an initial pretrial conference on May 16, 2005 at 2:00 p.m. in the above-captioned cases, and grant such other and further relief as the Court deems just and proper.

Dated: April 19, 2005

  
THE BAYARD FIRM  
Neil B. Glassman, Esq. (No. 2087)  
Ashley B. Stitzer (No. 3891)  
Mary E. Augustine (No. 4477)  
222 Delaware Avenue, Suite 900  
Wilmington, Delaware 19801  
(302) 655-5000 (telephone)  
(302) 658-6395 (facsimile)

-and-

LOWENSTEIN SANDLER PC  
Paul Kizel, Esq.  
65 Livingston Avenue  
Roseland, New Jersey 07068  
(973) 597-2500 (telephone)  
(973) 597-2400 (facsimile)

Attorneys for Creditor Trust Trustee